IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL WRITS No. 3317 of 2004

RAM KUMAR CHATURVEDI
V/S
THE CHAIRMAN,L.I.C. OF INDIA & ORS.

Mr. CS MANDORA, for the appellant / petitioner

Date of Order : 11.8.2004

HON'BLE SHRI N P GUPTA,J.

ORDER

Heard learned counsel for the petitioner. Perused the impugned orders, and the averments of the writ petition also.

I do not find any sufficient ground to interfere with the impugned order. Needless to say that the contract of insurance is a contract of active confidence, and the petitioner, who was the agent, clearly appears to have been instrumental in suppressing the 3-4 months' old existing pleural effusion with jaundice of the insured, and managed to get insured a sub-standard life, and the insured died within less than even six months of the issuance of the policy. True it is, that the Appellate Authority has taken into account the past events, viz., 9 early claims, true it also is, that the petitioner had no opportunity to contest that, but then, what is significant to note, is that in the entire writ petition, the said allegation has not even been denied. It has to be comprehended that on issuance of the policy, during subsistence of the policy, with deposit of every premium, the agent gets regular commission at the prescribed rates, and in the event of there being any early claim, obviously, the premium stops, being deposited, and as a necessary consequence, the agent also stops receiving the commission on that policy. Thus, it is reasonable to believe that the petitioner should be aware of the 9 early claims. In that background, absence of any averment, denying the allegation of 9 early claims in the writ petition, in my opinion, in the peculiar circumstances of the present case, is required to be considered against the petitioner.

The writ petition is, therefore, dismissed summarily.

(N P GUPTA),J.

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